

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re national phase application of )  
Dionisio Rio Simoes )  
Appln. No. : TBA )  
Patent No. : 6,045,360 )  
For : INSTRUMENT FOR MEDICAL OR )  
DENTAL TREATMENT OF CHILDREN )

**DECLARATION**

Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

I, Felix J. D'Ambrosio, declare as follows:

I am a registered patent attorney and a shareholder in the professional corporation  
of JONES, TULLAR & COOPER, P.C.

On August 17, 1998, I received instructions from Prof. Dr. Uwe Dreiss of the firm  
of DREISS, FUHLENDORF, STEIMLE & BECKER to initiate the filing of a U.S. national  
phase application for PCT/EP96/04945, published as WO 98/20804. A copy of the authorizing  
letter is attached to the Declaration of Prof. Dr. Uwe Dreiss.

On August 18, 1998, the U.S. national phase application was filed under 35 USC  
111. A copy of our letter reporting the filing to Prof. Dr. Uwe Dreiss is attached to Dr. Dreiss'  
Declaration.

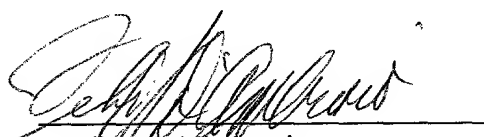
On June 5, 2000, I received a letter from Prof. Dr. Uwe Dreiss advising that the  
filing date of the international application was not indicated on the face of the patent. A copy of  
this letter is attached to Dr. Dreiss' Declaration.

I then wrote to Dr. Dreiss on June 6, 2000 and received his note of June 8, 2000 indicating that the German patent was granted on October 30, 1996 and published on April 24, 1997. A copy of the letter of June 6 and note of June 8, 2000 are attached to Dr. Dreiss' Declaration.

It is clear that to have obtained the filing date of the PCT/EP96/04945 application would have required that the U.S. national application be filed under 35 USC 371 and not 35 USC 111 with a petition to revive. The recommendation to proceed under 35 USC 111 was made without knowledge of the publication of the German patent.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 1/19/2001

  
Felix J. D'Ambrosio  
Reg. No. 25,721

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of )  
Dionisio Rio SIMOES )  
Appln. No. : TBA )  
Patent No. : 6,045,360 )  
For : INSTRUMENT FOR THE MEDICAL )  
OR DENTAL TREATMENT OF )  
CHILDREN )

**DECLARATION**

Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

I, Prof. Dr. Uwe Dreiss, declare as follows:

I am the German patent attorney (patentanwalt) authorized by Mr. Dionisio Rio Simoes to file a U.S. patent application corresponding with PCT/EP96/04945 (hereinafter the '945 application).

In keeping with this authorization, I instructed the U.S. firm of Jones, Tullar & Cooper, P.C. to enter the national phase in the U.S. for this application. A copy of my authorizing letter of 17 August 1998 is attached.

Our U.S. associate responded on August 18, 1998 that the application was filed under 35 USC 111 rather than 35 USC 371. A copy of this letter is attached.

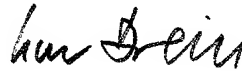
When the Letters Patent 6,045,360 was received by our office I noticed that the face of the patent did not mention the '945 application. I then communicated this fact to our U.S.

associates by letter of June 2, 2000. A copy of this letter is attached.

Our U.S. associate responded by letter of June 6, 2000, a copy of which is attached. It was only upon receipt of this letter that I became aware of the fact that the U.S. filing did not relate back to the '945 application.

In reply to this letter from our U.S. associate, I transmitted a note to the U.S. associate informing them of the granting of the corresponding German patent on October 30, 1996 and its publication on April 24, 1997. A copy of this note is attached.

Respectfully submitted



Prof. Dr. Uwe Dreiss

Date: September 1, 2000

Practitioner's Docket No. \_\_\_\_\_

**PATENT****REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY  
(BY INVENTOR(S) OR ASSIGNEE)**

(complete A or B)

**A. ☒ DECLARATION BY THE INVENTOR(S)**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is described and claimed in letters patent number 6,045,360, granted on April 4, 2000, and for which invention I solicit a reissue patent on the invention entitled INSTRUMENT FOR THE MEDICAL OR DENTAL TREATMENT OF CHILDREN

the specification of which

☒ is attached hereto.☐ was filed on \_\_\_\_\_, as reissue application number / and was amended on \_\_\_\_\_ (if applicable).☒ I hereby declare that there is no assignee for this application.

NOTE: "Where no assignee exists, applicant should affirmatively state that fact. If the file record is silent as to the existence of an assignee, it will be presumed that no assignee exists." M.P.E.P., 6th ed., rev. 1, § 1410.01.

**B. ☐ DECLARATION BY ASSIGNEE**

NOTE: The assignee of the entire interest may make the declaration, if the reissue application does not seek to enlarge the scope of the claims of the original patent. 37 C.F.R. § 1.172.

\_\_\_\_\_  
(type or print name of declarant)\_\_\_\_\_  
Title

of \_\_\_\_\_,  
Name of company or legal entity on whose behalf declarant is authorized to sign

declare that I am a citizen of \_\_\_\_\_ and resident of \_\_\_\_\_,

\_\_\_\_\_, that the entire title to letters patent number \_\_\_\_\_,

for \_\_\_\_\_,

granted on \_\_\_\_\_, 19\_\_\_\_ to \_\_\_\_\_

inventor(s)

is vested in \_\_\_\_\_

Name of company or legal entity

that I believe said named inventor(s) to be an original, first and sole inventor (if only one name is listed) or an original, first and part inventor (if plural names are listed) of the subject matter that is described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent.

**ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR**  
(37 C.F.R. § 1.175)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

- ☐ In compliance with this duty, there is attached an information disclosure statement in accordance with 37 C.F.R. § 1.98.

**PRIORITY CLAIM**

*NOTE: A "claim" for the benefit of an earlier filing date in a foreign country under 35 U.S.C. 119(a)-(d) must be made in a reissue application even though such a claim was made in the application on which the original was granted. However, no additional certified copy of the foreign application is necessary. M.P.E.P., 6th ed., rev. 1, § 1417.*

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

*(complete C or D)*

- C. ☐ No such applications have been filed.  
D. ☒ Such applications have been filed as follows:

**EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION**

Country	Application No.	Date of filing (day, month, year)	Date of issue (day, month, year)	Priority Claimed
				<input type="checkbox"/> YES    NO <input type="checkbox"/>
				<input type="checkbox"/> YES    NO <input type="checkbox"/>
				<input type="checkbox"/> YES    NO <input type="checkbox"/>

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION**

1) German Application No. 195 41 222.2-23    filed 11/4/95

2) PCT Application No. PCT/EP96/04945    filed 11/12/96

**BENEFIT OF PROVISIONAL APPLICATION**

(Reissue Application Declaration and Power of Attorney [17-6]—page 2 of 6)

**STATEMENT OF INOPERATIVENESS  
OR INVALIDITY OF ORIGINAL PATENT**

(37 C.F.R. § 1.175)

That I believe the original patent to be

- ☒ partly  
☐ wholly

inoperative or invalid by reason of (37 C.F.R. § 1.175(a)(1)):

*(check all items that may apply)*

- ☐ a defective specification  
☐ a defective drawing  
☒ the patentee claiming more or less than the patentee had a right to claim in the patent.

*NOTE: At least one error must be relied upon as the basis for the reissue. 37 C.F.R. § 1.175(a)(1).*

That the error listed above, which are being corrected, up to the time of the filing of this reissue declaration arose without any deceptive intention on the part of the applicant. (37 C.F.R. § 1.175(a)(2).

*NOTE: For any error corrected not covered by this declaration applicant must submit, before allowance, a supplemental declaration stating that every such error arose without any deceptive intention on the part of the applicant. 37 C.F.R. § 1.175(b)(1).*

- ☒ Corroborating affidavits or declarations of others accompany this declaration.

When filing the application of U.S. Patent No. 6,045,360 under 35 USC 111, applicant failed to file a petition to revive the U.S. application arising from the filing of PCT application, No. PCT/EP96/04945. The petition was necessary because the first filed German application had issued as a German patent subsequent to the filing of the noted PCT application but before the expiration of the Twenty (20) month period from the filing of the PCT application. The Petition to Revive the U.S. National Phase application under 35 USC 371 would result in a U.S. filing date of November 12, 1996.

## POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

*(list name and registration number)*

George M. Cooper, Reg. No. 20,201      William A. Blake, Reg. No. 30,548  
Felix J. D'Ambrosio, Reg. No. 25,721  
Eric S. Spector, Reg. No. 22,495  
Douglas R. Hanscom, Reg. No. 26,680

*(check the following item, if applicable)*

- ☐ I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.
- ☐ Attached, as part of this declaration and power of attorney, is the authorization of the above-named practitioner(s) to accept and follow instructions from my representative(s).

### SEND CORRESPONDENCE TO

### DIRECT TELEPHONE CALLS TO: *(Name and telephone number)*

☒ Address

Felix J. D'Ambrosio  
JONES, TULLAR & COOPER, P.C.  
P.O. Box 2266 Eads Station  
Arlington, Va 22202

Felix J. D'Ambrosio  
(703) 415-1500

☐ Customer Number \_\_\_\_\_

(Reissue Application Declaration and Power of Attorney [17-6]—page 4 of 6)



**DECLARATION**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Signature(s)**☒ **BY THE INVENTOR(S)**

Full name of sole or first inventor Dionisio Rio Simoes  
 Inventor's signature Dionisio Rio Simoes  
 Date 00/12/29 Country of Citizenship Portugal  
 Residence Albufeira, Portugal  
 Post Office Address Rua 5 de Outubro, No. 71, P-8200, Albufeira, Portugal

Full name of second joint inventor, if any \_\_\_\_\_  
 Inventor's signature \_\_\_\_\_  
 Date \_\_\_\_\_ Country of Citizenship \_\_\_\_\_  
 Residence \_\_\_\_\_  
 Post Office Address \_\_\_\_\_

☐ **BY ASSIGNEE OR PERSON AUTHORIZED TO SIGN ON BEHALF OF ASSIGNEE**

NOTE: Even though inventor(s) do not sign, complete above information for inventor(s).

(complete the following, if applicable)

\_\_\_\_\_  
 (type name of assignee)

\_\_\_\_\_  
 Address of assignee

\_\_\_\_\_  
 Title of person authorized to sign on behalf of assignee

☐ Assignment recorded in PTO on \_\_\_\_\_

Reel \_\_\_\_\_

Frame \_\_\_\_\_

☐ A separate ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET"  
 or ☐ FORM PTO 1595 is submitted herewith along with the assign-  
 ment \_\_\_\_\_

### STATEMENT BY ASSIGNEE

- ☐ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

\_\_\_\_\_  
Signature of assignee or person authorized to  
sign on behalf of assignee

*(check proper box(es) for any added page(s) forming a part of this declaration)*

- ☐ Signature for third and subsequent joint inventors. Number of pages added. \_\_\_\_\_
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added. \_\_\_\_\_
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 C.F.R. § 1.47. Number of pages added. \_\_\_\_\_
- ☐ Statement of inoperativeness or invalidity of original patent. 37 C.F.R. § 1.175. Number of pages added \_\_\_\_\_
- ☐ Authorization of attorney(s) to accept and follow instructions from representative.
- ☒ Corroborating statements of others.

(Reissue Application Declaration and Power of Attorney [17-6]—page 6 of 6)